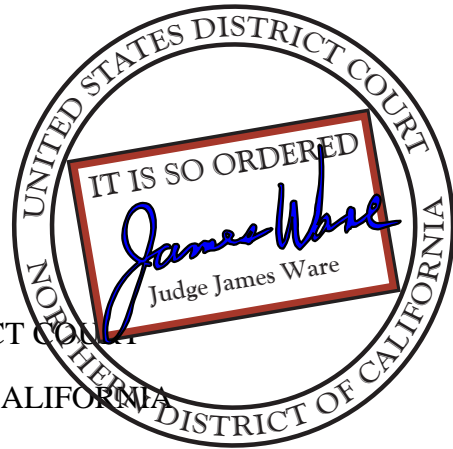


[see signature page for attorney names]



UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

BOSTON SCIENTIFIC CORP. and
TARGET THERAPEUTICS, INC.,

Plaintiffs,

v.

CORDIS CORPORATION,

Defendant.

Case No.: C02-1474-JW

**STIPULATION AND [PROPOSED]
ORDER TO SHORTEN TIME FOR
BRIEFING AND TO SET HEARINGS
FOR PLAINTIFFS' MOTIONS TO JOIN
THE REGENTS OF THE UNIVERSITY
OF CALIFORNIA AS NOMINAL
PLAINTIFF AND TO STRIKE DEFENSES
BASED ON 35 U.S.C. § 112**

Pursuant to Civil Local Rules 6-1, 6-2 and 7-12, Plaintiffs Boston Scientific Corporation ("BSC") and Target Therapeutics, Inc. ("Target") (together "Plaintiffs"), hereby request an order shortening time for briefing and setting for hearing on February 24, 2009 Plaintiffs' motion to join the Regents of the University of California ("The Regents") as nominal plaintiff and motion to strike defendant Cordis Corporation's ("Cordis") defenses based on 35 U.S.C. § 112. Plaintiffs seek such relief because adherence to the briefing schedule established by the Civil Local Rules would deny Plaintiffs any relief and deprive the Court an opportunity to hear the issues presented by the motions prior to trial.

On February 9, 2009, the Court set the trial schedule to commence with jury selection on March 3, 2009, with a hearing regarding additional issues to be resolved prior to trial on February 24, 2009 (D.I. 1338, 1339). This limited time frame would not allow the parties to brief the joinder and Section 112 issues under the minimum time periods proscribed by the Civil Local Rules.

STIPULATION AND [PROPOSED] ORDER TO SHORTEN TIME FOR BRIEFING AND TO SET HEARINGS FOR PLAINTIFFS' MOTIONS TO JOIN THE REGENTS OF THE UNIVERSITY OF CALIFORNIA AS NOMINAL PLAINTIFF AND TO STRIKE DEFENSES BASED ON 35 U.S.C. § 112- CASE NO. C 02 1474 JW

Therefore, Plaintiffs respectfully request the following stipulated expedited briefing schedule for their motions to join The Regents as a nominal plaintiff and to strike Cordis's defenses based on 35 U.S.C. § 112:

(1) Plaintiffs will file and serve their motions no later than Friday, February 13, 2009.

(2) Cordis will file and serve its opposition, if any, no later than one calendar week from service of Plaintiffs' motion to which the opposition responds, or Friday, February 20, 2009, whichever is later.

(3) Plaintiffs will file and serve their replies, if any, no later than Monday, February 23, 2009.

Plaintiffs further request that these motions be set for the hearing scheduled for 9:00 a.m., February 24, 2009.

Counsel for Plaintiffs has conferred with counsel for Cordis. Counsel for Cordis believes that any motion to strike Cordis' Section 112 defenses is untimely and that no such motion should be filed absent leave of Court.¹ Additionally, Cordis intends to oppose Plaintiffs' motion to join the Regents and, assuming leave to file a motion to strike is granted, intends to oppose that motion as well. To the extent the Court allows Plaintiffs to file the motions referred to herein, counsel for Cordis will not oppose the proposed schedule set forth herein. See Declaration of Robert D. Carroll ¶ 5.

CONCLUSION

For all the foregoing reasons, and pursuant to stipulation, Plaintiffs respectfully requests an order shortening time for briefing as set forth in the accompanying proposed order and setting for hearing on February 24, 2009 plaintiffs' motion to join The Regents as nominal plaintiff and motion to strike Cordis's defenses based on 35 U.S.C. § 112.

¹ It is BSC and Target's position that a motion to strike defenses based on 35 U.S.C. § 112 is timely and that no preliminary motion seeking leave of court is necessary.

1 Dated: February 12, 2009

By: /s/Michael G. Strapp
Paul F. Ware Jr. (*Pro Hac Vice*)
J. Anthony Downs (*Pro Hac Vice*)
Roland H. Schwillinski (*Pro Hac Vice*)
Michael G. Strapp (*Pro Hac Vice*)
GOODWIN PROCTER LLP
Exchange Place
Boston, Massachusetts 02109-2881
Tel: (617) 570-1000
Fax: (617) 523-1231
pware@goodwinprocter.com
jdowns@goodwinprocter.com
rschwillinski@goodwinprocter.com
mstrapp@goodwinprocter.com

Michael F. Kelleher
FOLGER LEVIN & KAHN LLP
Embarcadero Center West
275 Battery Street, 23rd Floor
San Francisco, CA 94111

Attorneys for Plaintiffs
BOSTON SCIENTIFIC CORP. and
TARGET THERAPEUTICS, INC.

15 Dated: February 12, 2009

By: /s/ Matthew T. Powers
Matthew T. Powers (SBN 124493)
SIDLEY AUSTIN LLP
555 California Street, Suite 2000
San Francisco, CA 94104
Telephone: (415) 772-1200
Facsimile: (415) 772-7400

Hugh A. Abrams (*Pro Hac Vice*)
Lisa A. Schneider (*Pro Hac Vice*)
Stephanie P. Koh (*Pro Hac Vice*)
SIDLEY AUSTIN LLP
10 S. Dearborn Street
Chicago, IL 60603
Telephone: (312) 853-7000
Facsimile: (312) 853-7036

Attorneys for Defendant
CORDIS NEUROVASCULAR, INC.

ATTESTATION OF SIGNATURE

(N.D. Cal. General Order No. 45)

Pursuant to N.D. Cal. General Order No. 45 § X(B), I hereby attest under penalty of perjury that concurrence in the filing of this document has been obtained by all the signatories.

Dated: February 12, 2009

By: /s/Michael G. Strapp
Michael G. Strapp (*Pro Hac Vice*)
GOODWIN PROCTER LLP
Exchange Place
Boston, Massachusetts 02109-2881
Tel: (617) 570-1000
Fax: (617) 523-1231
mstrapp@goodwinprocter.com

Attorneys for Plaintiffs
BOSTON SCIENTIFIC CORP. and
TARGET THERAPEUTICS, INC.

UNITED STATES DISTRICT COURT
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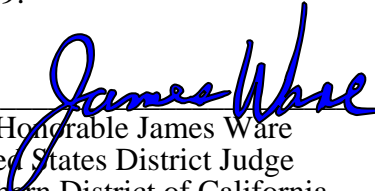
~~[PROPOSED]~~ ORDER GRANTING
STIPULATED MOTION TO SHORTEN TIME
FOR HEARING ON PLAINTIFFS' MOTIONS

Pursuant to stipulation, IT IS SO ORDERED that plaintiffs' motion to join the Regents of the University of California ("The Regents") as nominal plaintiff and motion to strike defendant Cordis Corporation's ("Cordis") defenses based on 35 U.S.C. § 112 are set for expedited briefing as follows:

- (1) Plaintiffs shall file and serve their motions no later than Friday, February 13, 2009.
- (2) Cordis will file and serve its oppositions, if any, no later than one calendar week from service of Plaintiffs' motion to which the opposition responds, or Friday, February 20, 2009, whichever is later.
- (3) Plaintiffs shall file their replies, if any, no later than Monday, February 23, 2009.

Pursuant to stipulation, IT IS FURTHER ORDERED THAT, the motions will be heard at the hearing scheduled for 9:00 a.m., February 24, 2009.

Dated: February 19, 2009


The Honorable James Ware
United States District Judge
Northern District of California